

Message Text

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PAGE 01 SAN JO 04421 151730Z

46

ACTION ARA-20

INFO OCT-01 ISO-00 SCEM-02 INT-08 OMB-01 AID-20 CIAE-00

COME-00 EB-11 FRB-02 INR-10 NSAE-00 RSC-01 TRSE-00

XMB-07 OPIC-12 SPC-03 CIEP-02 LAB-06 SIL-01 DODE-00

PM-07 H-03 L-03 NSC-10 PA-04 PRS-01 SS-20 USIA-15

DRC-01 /171 W

----- 013370

R 142150Z DEC 73

FM AMEMBASSY SAN JOSE

TO SECSTATE WASHDC 5773

INFO AMEMBASSY GUATEMALA

AMEMBASSY MANAGUA

AMEMBASSY PANAMA

AMEMBASSY CARACAS

AMEMBASSY SAN SALVADOR

AMEMBASSY TEGUCIGALPA

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E.O. 11652: N/A

TAGS: ENRG, CS

SUBJECT: ENERGY CRISIS--"PUBLIC CALAMITY" DECREED

REF: SAN JOSE 4391

1. SUMMARY: GOCR ON DECEMBER 14 CITED ARTICLE 180
OF COSTA RICA'S CONSTITUTION IN DECLARING A "PUBLIC CALAMITY"
AS A RESULT OF THE ENERGY CRISIS. UNDER THE TERMS OF
ARTICLE 180, THE EXECUTIVE IS AUTHORIZED, WHEN THE
ASSEMBLY IS IN RECESS, INTER ALIA, TO CONTRACT LOANS.
GOCR'S STRATEGY IS TO GET AROUND ASSEMBLY'S REFUSAL TO
ACT ON RECOPE TRANSFER MEASURE AND TO BORROW \$5 MILLION
WITHOUT THE NORMALLY REQUIRED APPROVAL OF THE ASSEMBLY,
FOR PAYING OFF RECOPE'S OBLIGATIONS TO ALLIED CHEMICAL
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PAGE 02 SAN JO 04421 151730Z

AND FOR MAKING NEW PURCHASES.

2. IN PARAGRAPH 3 OF REFTEL MINISTER OF ECONOMY, INDUSTRY, AND COMMERCE KOGAN WAS QJYTED TO THE EFFECT THAT THE PROBLEM OF GETTING A GOCR GUARANTEE FOR A COMMERCIAL LOAN OF \$5 MILLION FROM THE FIRST NATIONAL BANK OF CHICAGO FOR RECOPE WOULD BE SOLVED. KOGAN HAD BEEN REBUFFED ON DECEMBER 9TH IN HIS EFFORT TO HAVE A SPECIAL SESSION OF THE ASSEMBLY APPROVE THE GUARANTEEBO

3. ON DECEMBER 13 THE GOCR ISSUED A DECREE WHICH SEEMS TO ACHIEVE KOGAN'S PURPOSE. ARTICLE 180 OF THE CONSTITUTION AUTHORIZES THE EXECUTIVE POWER "IN TIMES OF PUBLIC CALAMITY" TO SHIFT FUNDS WITHIN THE NATIONAL BUDGET AND TO OPEN NEW CREDITS IF THE ASSEMBLY IS IN RECESS. JUST WHAT THE ROLE, IF ANY, OF THE ASSEMBLY WOULD BE--AFTER THE FACT--OF ANY ACTIONS TAKEN UNDER ARTICLE 180 IS NOT CLEAR, ALTHOUGH THE EXECUTIVE IS CHARGED WITH BRINGING SUCH ACTIONS TO THE ASSEMBLY'S ATTENTION.

4. THE DECEMBER 13 DECREE CITES ARTICLE 180 AND FINDS THAT THE WORLD ENERGY CRISIS TOGETHER WITH THE RECENT RUPTURE OF RECOPE'S PIPELINE (PARAGRAPH 4, REFTEL) CONSTITUTES SUCH "PUBLIC CALAMITY".

5. MORNING PRESS ALSO REPORTS THAT A FOLLOW-UP DECREE WILL BE ISSUE SHORTLY WHICH WILL AUTHORIZE THE MINISTER OF FINANCE TO CONCLUDE A COLONES 33.6 (\$5 MILLION LOAN FOR THE PURPOSE OF MAKING FUELS PURCHASES.

6. : COMMENT: WE UNDERSTAND THAT THE \$5 MILLION LOAN IS BEING CONTRACTED BOTH FOR PURCHASING NEW SUPPLIES AND FOR PAYING OFF THE REMAINDER OF THE \$2.6 MILLION RECOPE DEBT TO ALLIED CHEMICALS FOR INVENTORIES ON HANEFAND ACCOUNTS RECEIVABLE DUE AS OF COB SEPTEMBER 30, 1973, I.E., THE AGREED UPON DATE IN THE TRANSFER AGREEMENT BETWEEN THE GOCR AND ALLIED CHEMICAL. A FIRST PAYMENT WAS DUE ON THIS DEBT AAT THE END OF NOVEMBER AND A FINAL PAYMENT AT LIMITED OFFICIAL USE

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PAGE 03 SAN JO 04421 151730Z

THE END OF DECEMBER. HOWEVER, SO FAR, BECAUSE OF THE ASSEMBLY'S REFUSAL TO RATIFY THE TRANSFER AGREEMENT OR TO GRANT INTERIM APPROVAL FOR THE LOAN, RECOPE MANAGER COVERSTON TOLD THE EMBASSY SO FAR ONLY \$690,000 HAS BEEN PAID DECEMBER 14.

7 WHAT THE LEGAL RAMIFICATIONS OF THE DECREE ARE PROBABLY WILL NOT BE CLEAR FOR SOME TIME. IF THE

LOAN IS CONCLUDED AND ALLIED IS PAID OFF AS ANTICIPATED,
THE PRACTICAL EFFECT WOULD SEEM TO US TO BE THAT ALLIED
WOULD BE EFFECTIVELY OUT OF THE PICTURE, WITH NO FURTHER
CLAIMS OF ITS OWN TO BE JEOPARDIZED. THUS THE
US-COSTA RICAN RELATIONS ASPECTS OF THE TRANSACTIONS MAY WELL
DISAPPEAR, WITH THE ASSEMBLY LEFT LITTLE TO ARGUE ABOUT
OTHER THAN WHETHER THE FAIT
ACOMPLI WAS REALLY LEGAL OR NOT AND JUST WHO NOW OWNS
RECOPE.

8. THE NATIONAL CALAMITY WAS OBVIOUSLY
CONCOTED FOR THE IMMEDIATE PROBLEM OF FUNDING
RECOPE. IT MIGHT WELL, HOWEVER, BE PUT TO OTHER
USES IN CONNECTION WITH THE ENERGY
CRISIS IN THE NEXT FEW WEEKS, SUCH AS PROVIDING FOR ASSUMPTION
OF THE "FRENCH DEBT" ANOTHER LOOSE END.

9. LATEST PROGNOSTICATION BY COVERSTON REGARDING
REPAIR OF THE PIPELINE BREAK IS THAT THE LINE SHOULD BE
BACK IN SERVICE BY ABOUT TUESDAY OF NEXT WEEK, SO A
NEW GASOLINE SHORTAGE IN SAN JOSE JUST BEFORE
CHRISTMAS SEEMS UNAVOIDABLE.
VAKY

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